

### REMARKS

Claims 1-20 are pending in the present application. Claims 1, 11, 12, and 19 have been amended herein. No new matter has been added.

Claims 1 and 19 have been objected to for having typographical errors. These errors have been corrected herein.

Claims 1, 4-12, and 15-20 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent No. 6,335,279 to Jung et al. (hereinafter "Jung") taken with U.S. Patent No. 6,004,851 to Peng (hereinafter "Peng") and U.S. Patent No. 5,847,428 to Fulford, Jr. et al. (hereinafter "Fulford"). Claims 2-3, and 13-14 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Jung taken with U.S. Patent No. 6,812,073 to Bu et al. (hereinafter "Bu"). Applicants respectfully traverse these rejections.

The Office Action asserts that Applicants' claims 1-11 are unpatentable in view of Jung taken with Peng under 35 U.S.C. § 103(a). These references, however, may not be combined as asserted by the Office Action. "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. . . . Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." (MPEP § 2145, citing *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In the present case, there is no suggestion to combine the teachings of Jung and Peng in the manner suggested by the Office Action. First, Jung explicitly teaches that the second spacers 132 "are removed to widen the distance between gate electrodes 118a and 118b." (Jung, col. 8, ll.34-37.) Thus in the system described in Jung, there is no suggestion or motivation to perform a third ion implant to "form an enhanced lightly doped region so as to reduce reverse junction leakage current and further suppress hot carrier effects" as asserted by the Office Action. (Office Action, page 4.)

Furthermore, Peng simply discloses the use of a sacrificial spacer. Peng assertedly discloses performing a first implant using the gate electrode as a mask, performing a second implant using a spacer 22a and liner 21a as a mask, removing the sacrificial spacer 22a, forming a spacer 21b, and then performing a third implant. It should be noted that spacer 21b is formed

after removing the sacrificial spacer 22a, *i.e.*, the first spacer is the sacrificial spacer. It should also be noted that because the first spacer is formed after removing the sacrificial spacer, Peng does not disclose the step "performing a second ion implant wherein the sacrificial spacer and the first spacer acts as a mask" as recited in Applicants' claim 1 because the first spacer has not yet been formed. Other than the use of a sacrificial spacer there does not appear to be any similarity between Peng and the present case.

Thus, the Office Action appears to be incorporating features of Peng for the simple reason that the features may be bodily incorporated, against the explicit prohibition of doing so as stated in MPEP §2145. "To establish a prima facie case of obviousness, . . . there must be some suggestion or motivation . . . to modify the references or to combine reference teachings." (MPEP §2143.01) As discussed above, there is no suggestion or motivation to modify Peng and Jung in the manner asserted in the Office Action, and thus, the Office Action fails to establish a prima facie case of obviousness.

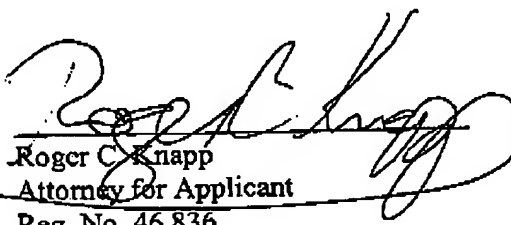
Nevertheless, even though Applicants believe claim 1 is patentable unamended, Applicants have amended claim 1 to more clearly recite an embodiment of the present invention. In particular, Applicants have amended claim 1 to recite that the step "performing a third ion implant wherein the first spacer acts as a mask *after the removing the sacrificial spacer.*"

Claim 12 includes a similar limitation as discussed above with reference to claim 1, and accordingly, it is respectfully requested that the rejection of independent claim 12 be withdrawn as well. Claims 2-11 and 13-20 depend from and further limit independent claims 1 and 12, and accordingly, it is also respectfully requested that the rejections of claims 2-11 and 13-20 be withdrawn as well.

In view of the above, Applicants respectfully submit that the application is in condition for allowance and request that the Examiner pass the case to issuance. If the Examiner should have any questions, Applicants request that the Examiner contact Applicants' attorney at the address below. No fee is believed due in connection with this filing. However, in the event that there are any fees due, please charge the same, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

January 6, 2006  
Date

  
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